

ARIZONA MINER.

SUPPLEMENT.

VOLUME I.

PRESCOTT, ARIZONA, WEDNESDAY NOVEMBER 23, 1864.

NUMBER 16.

LAWS OF ARIZONA.

[BY AUTHORITY.]
OF SHERIFFS.

Be it enacted by the Legislative Assembly of the Territory of Arizona.

SECTION 1. The Sheriff of each organized county shall be elected at the general election, for the term of two years, and shall give bond to this Territory in the penal sum of ten thousand dollars, and with sufficient sureties, not less than three in number, as the Judge of the District Court, or the County Commissioners shall approve.

§ 2. The condition of such bond shall be in substance as follows: "Whereas, the above bounden hath been elected to the office of Sheriff of the county of _____ at the general election held therein, on the _____ day of _____

Now therefore, the condition of the above obligation is such, that if the said _____ shall well and faithfully in all things perform and execute the office of Sheriff of the said county of _____ during his continuance in office by virtue of the said election, without fraud, deceit, or oppression, and shall pay over all moneys that may come into his hands as such Sheriff, then the above obligation to be void, otherwise to be and remain in full force."

§ 3. Each Sheriff may appoint one or more deputies, for whose official acts he shall be in all respects responsible, and may revoke such appointments at his pleasure; and persons may also be deputed by any Sheriff, by an instrument in writing, to do particular acts.

§ 4. The Sheriff of each county shall, as soon as may be, after entering upon the execution of his office, appoint some proper person under Sheriff of the same county, who shall also be a general deputy, to hold during the pleasure of such Sheriff; and as often as a vacancy shall occur in the office of such under Sheriff, or he become incapable of executing the same, another shall, in like manner, be appointed in his place.

§ 5. Whenever a vacancy shall occur in the office of sheriff of any county, the under sheriff of such county shall, in all things, execute the office of sheriff until a sheriff shall be elected and qualified; and any default or misfeasance in office of such under sheriff in the meantime, as well as before, shall be deemed to be a breach of the condition of the bond given by the sheriff who appointed him, and also a breach of the condition of the bond executed by such under sheriff to the sheriff by whom he was appointed.

§ 6. Every appointment of an under sheriff, or of a deputy sheriff, and every revocation thereof, shall be in writing under the hand of the sheriff, and shall be filed and recorded in the office of the Clerk of the District Court; and every such under sheriff or deputy shall before he enters upon the duties of his office, take the oath prescribed by the law. But this section shall not extend to any person who may be deputed by any sheriff to do a particular act only.

§ 7. The sheriff shall have the charge and custody of the jails of his county, and of the prisoners in the same; and shall keep them himself or by his deputy or jailor for whose acts he shall be responsible.

§ 8. The sheriff in person, or by his under sheriff or deputies, shall serve or execute according to law, all process, writs, precepts and orders, issued or made by lawful authority, and to him directed.

§ 9. Sheriffs and their deputies may execute all such process as shall be in their hands at the expiration of the term for which such sheriffs were elected, or at the time of their removal from office; and in case of a vacancy in the office of sheriff, every deputy in office under him, having any writ or process in his hands at the time such vacancy happened, shall have the same authority, and be under the same obligation to serve and execute, and return the same, as if such sheriff had continued in office.

§ 10. Any default or misfeasance in office of any deputy sheriff or jailor, after the death, resignation or removal of any sheriff by whom he was appointed shall be adjudged a breach of the bond of such sheriff.

§ 11. Any action for the malfeasance, misfeasance, or nonfeasance of a sheriff or any of his deputies, may be prosecuted against the executors or administrators of such sheriff, in like manner as if the cause of action survived at common law.

§ 12. No sheriff, deputy sheriff, or coroner shall appear in any court as attorney or counsel for, or on behalf of any party in a suit; nor shall he draw, make, or fill up any writ declaration, plea, or process, for any such party; nor shall he, with intent to procure himself to be employed in the collection of any demand, or the service of any process, advise or counsel any person to

commence any suit or proceeding; and either of said officers for a violation of any provision of this section shall forfeit the sum of fifty dollars.

§ 13. Any sheriff, deputy sheriff, coroner or constable, may require suitable aid in the service of process in civil or criminal cases, in preserving the peace, or in apprehending or securing any person for felony or breach of the peace, when such officer may have power to perform such duty; and when any such officer shall find resistance made against the execution of any process, or shall have good reason to believe that such resistance will be made, he may take the power of the county, and proceed therewith in proper person to execute such process.

§ 14. Whenever a sheriff shall be required by any statutory provision to perform any service in behalf of the Territory and for its benefit, which shall not be made chargeable by law to his county, or to some officer or other person his account for such services shall be audited by the Board of Territorial Auditors and paid out of the Territorial Treasury.

§ 15. It shall be the duty of the sheriff of every county to keep an office, at the place where the courts for such county are held, of which he shall file a notice in the office of the clerk of the county; and to keep the same open during the usual business hours each day, Sundays excepted.

§ 16. Every notice or other paper which shall be required to be served on any sheriff, may be served by leaving the same at the office designated by him in such notice, during the hours for which it is required to be kept open; but if there be any person belonging to such office therein, such notice or paper shall be delivered to such person; and every such service shall be deemed equivalent to a personal service on such sheriff.

§ 17. If no notice shall be filed by any sheriff with the District Clerk as herein required, the service of all papers on such sheriff may be made by leaving them at the office of the said Clerk, with such clerk or his deputy; and the same shall be deemed equivalent to a personal service on such sheriff.

§ 18. Every such sheriff shall be the Assessor and Collector of taxes for the county for which he is elected; he shall assess all the taxable property of such county agreeably to the provisions of law, and collect all taxes which he shall, by law be required to collect; he shall also execute all the lawful orders, and serve all papers and notices required by law to be served by him, issued by the board of County Commissioners.

§ 19. Whenever any new sheriff shall be elected or appointed in the place of any other, or upon the expiration of any sheriff's office, and shall have qualified and given the security required by law, the Clerk of the District Court shall grant a certificate, under the seal of the District Court for the county, that the person so elected has qualified and given such security.

§ 20. Upon the service of such certificate on the former sheriff, his powers as such sheriff, except in the cases otherwise expressly provided by law, shall cease.

§ 21. Within ten days after the service of such certificate upon such former sheriff, he shall deliver to his successor: 1st. The jail of the county, with all its appurtenances, and the property of the county therein. 2nd. All the prisoners then confined in such jail. 3rd. All process, orders, rules commitments and all other papers or documents in his custody, authorizing, or relating to the confinement of such prisoners; and if any process shall have been returned, a statement in writing of the contents thereof, and when returned. 4th. All writs of capias and other original process and all precepts and other documents, for the summoning of a grand or petit jury, then in his hands, which shall not have been fully executed by him. 5th. All executions, attachments, and final process, then in his hands, except such as the said former sheriff shall have executed, or shall have begun to execute by the collection of money thereon, or by a levy on property in pursuance thereof.

§ 22. At the time of such delivery, the said former sheriff shall execute an instrument, reciting the property, process, documents and prisoners delivered, specifying particularly the process or other authority by which each prisoner was committed, and is detained, and whether the same be returned or delivered, to such new sheriff; which instrument shall be delivered, to such new sheriff, who shall acknowledge in writing upon a duplicate thereof, the receipt of the property, process, documents and prisoners therein specified, and shall deliver such duplicate and acknowledgment to the said former sheriff.

§ 23. Notwithstanding the election of a new sheriff the former sheriff shall return, in his own name, all writs of capias, all other original pro-

cess, all attachments and all executions, which he shall have fully executed, and shall proceed to complete the execution of all final process and attachments, which he shall have begun to execute by a collection of money thereon, or by a levy on property in pursuance thereof.

§ 24. If any former sheriff shall neglect or refuse to deliver to his successor the jail, process, documents and prisoners in his charge, as herein required, such successor may notwithstanding take possession of such jail, and take the custody of the prisoners therein confined, and may compel the delivery of such process and documents, in the manner prescribed in this code.

§ 25. If at the time when any new sheriff shall have qualified and given the security required by law, the office of the former sheriff shall be executed by his under sheriff, or by a coroner of the county, such under sheriff, or coroner, shall in all things comply with the preceding provisions, and shall perform the duties required of such former sheriff.

W. CLAUDE JONES,

Speaker of the House of Representatives.

COLES BASHFORD,

President of the Council.

Approved, November 9, 1864.

JOHN N. GOODWIN,

A true copy of the original on file in my office.

RICHARD C. McCORMICK,

Secretary of the Territory.

AN ACT ENTITLED OF THE JUSTICES OF THE PEACE.

Be it enacted by the Legislative Assembly of the Territory of Arizona.

SECTION 1. There shall be elected at the next general election two justices of the Peace in each election precinct in this Territory by the qualified electors thereof, and in each such precinct containing a population of more than eight hundred persons, to be ascertained by the Probate Court, there shall be an additional justice elected.

§ 2. The votes given for justices of the peace shall be canvassed and returned in the manner as votes are canvassed and returned for other county officers; and upon such returns being made the county recorder shall proceed to estimate the votes, make and deliver a certificate to the person or persons elected, as in the case of other county officers.

§ 3. Each justice of the peace shall hold his office for one year unless removed as provided by law, and until his successor is duly elected and qualified; justices of the peace for the purposes of removal or supplying vacancies shall be considered as county officers.

§ 4. At the general election held previously to the expiration of the term of office of any justice of the peace, another shall be elected to supply his place.

§ 5. Every justice of the peace upon the expiration of his term of office, or upon his removal therefrom, shall upon demand deliver to his successor in office his docket and all books and papers belonging to or in possession of such justice by virtue of his office, and if any such justice of the peace shall neglect or refuse so to deliver such docket, books and papers, he shall forfeit a sum not exceeding five hundred dollars, to be recovered in an action in the name of the Territory of Arizona, and shall be, moreover, liable to any person interested for all damages he may sustain in consequence of such neglect or refusal; and in case of the refusal of such justice to comply with the requirements of this chapter, he shall be deemed guilty of a misdemeanor.

§ 6. The newly elected and qualified justice of the peace shall, upon receipt of the books and papers of his predecessor, proceed to carry out all the unfinished business of his predecessor according to law.

§ 7. Each justice of the peace appointed to fill vacancy, and each justice elected for a term, within ten days after notice of his election or appointment shall take and subscribe his oath of office before some officer authorized to administer oaths, and file the same with the district clerk.

§ 8. Each justice of the peace, before he enters upon the duties of his office, and within the time limited by law for filing his official oath, shall execute, in the presence of the district clerk, with one or more sufficient sureties, to be approved of by such clerk, an instrument in writing, by which such justice and his sureties shall jointly and severally agree to pay to each and every person entitled thereto, all such sums of money as such justice shall become liable to pay, or on account of any money which may come into his hands as a justice of the peace, upon demand thereof, made by such person, his agent or attorney.

§ 9. Such district clerk shall endorse on such instrument his approval of the sureties therein named, and such justice shall then cause the same to be filed in the office of the district clerk, and a copy of such instrument, certified by such clerk under his hand and seal, shall be presumptive evidence of the contents and execution thereof.

§ 10. If any justice of the peace shall fail to comply with such agreement it shall be competent for any person to whom such justice shall have become liable by reason of such failure, to sue such justice and his sureties, or any of them, and to declare against them generally, for money had and received to the use of the plaintiff; and if the plaintiff on the trial of such suit shall establish his right to recover, he shall have judgment for principal, interest and costs.

§ 11. If any justice of the peace shall enter upon the execution of his office before having filed his official oath or agreement as aforesaid, as required by law, he shall forfeit the sum of one hundred dollars.

§ 12. This act shall take effect and be in force from and after the first day of January, A. D. 1865.

W. CLAUDE JONES,

Speaker of the House of Representatives.

COLES BASHFORD,

President of the Council.

Approved November 9, 1864.

JOHN N. GOODWIN,

A true copy of the original on file in my office.

RICHARD C. McCORMICK,

Secretary of the Territory.

OF CONSTABLES.

Be it enacted by the Legislative Assembly of the Territory of Arizona.

SECTION 1. There shall be elected annually at the general election of each precinct one and not more than two constables, by the qualified electors thereof, and who shall hold their office for one year, and until their successors are elected and qualified.

§ 2. No constable shall assist in conducting any suit or proceedings in the justice's court, nor purchase or be interested in any claims purchased for the purpose of being prosecuted in such courts, or be a purchaser or interested in the purchase of any property sold by him on any process issued by any justice of the peace.

§ 3. Every person elected or appointed to the office of constable before he enters upon the duties of his office, and within the time prescribed by law for filing his official oath, shall execute, with sufficient sureties, to be approved by the judge of Probate or a justice of the peace, an instrument in writing, by which said constable and his sureties shall jointly and severally agree to pay to each and every person who may be entitled thereto all such sums of money as the said constable may become liable to pay, on account of any neglect or default of said constable in the service or return of any process that may be delivered to him for service or collection.

§ 4. Such probate judge or justice of the peace shall endorse on such instrument his approbation of the sureties therein named, and shall then cause the same to be filed in the office of the county recorder, and a copy of such instrument, certified by the county recorder, shall be presumptive evidence of the contents and execution thereof, and all actions against a constable or his sureties, upon any such instrument, shall be prosecuted within two years after the expiration of the year for which the constable named therein shall have been elected.

§ 5. Constables shall serve all warrants, notices and process lawfully directed to them, and shall perform such other duties as are required of them by law.

§ 6. Any constable may serve any writ, process or order lawfully directed to him, in any township in his county.

§ 7. Constables shall be ministerial officers of justices of the peace, and shall attend upon the sessions of the district courts, for their respective counties, when notified for that purpose by the sheriff.

§ 8. This act shall take effect and be in force from and after the first day of January, A. D. 1865.

W. CLAUDE JONES,

Speaker of the House of Representatives.

COLES BASHFORD,

President of the Council.

Approved Nov. 9, 1864.

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